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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2011 JUL 22 AM 10:47 ✓

SANDRA K MARKHAM, CLERK

BY: ~~Kelly Gresham~~

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

CAUSE NO. P1300CR201001325

ADDENDUM TO RESPONSE TO
MOTION TO DISMISS/DISQUALIFY
YAVAPAI COUNTY ATTORNEY'S
OFFICE

Assigned to Hon. Warren R. Darrow
Division PTB

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby submits an addendum to its Response to Defendant's Motion to Dismiss or Disqualify the Yavapai County Attorney's Office ("YCAO").

On July 21, 2011 during a scheduling hearing, the Court informed the parties that 14 of 16 Rule 15.9(b) Sealed Orders were sent to YCAO and Victim Advocate by the Clerk of the Court ("Clerk"). The Court ordered the undersigned to review the State's entire file to determine if the subject Orders were in YCAO'S file.

A through search was conducted resulting in the discovery of 12 of the 16 Rule 15.9(b) Sealed Orders. The Sealed Orders were found in a "banker's box" that came from retired Deputy County Attorney Joseph Butner's YCAO office located in Camp Verde, AZ. The contents of this box was unknown by the undersigned until yesterday.

Office of the Yavapai County Attorney

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1 On the bottom of the Rule 15.9 Sealed Orders, the Clerk's stamp has check marks indicating
2 the document was sent to the County Attorney, the Victim Advocate, Attorneys Sears and Hammond
3 and Dean Trebesch, the contract administrator. A redacted copy of an Order for Rule 15.9
4 Appointments (Under Seal) dated July 29, 2009 is attached hereto as exhibit "A". YCAO intake
5 stamp show exhibit "A" was received on July 30, 2009.

6
7 This same Sealed Order was sent to attorneys Sears and Hammond and the contract
8 administrator. Attorney's Sears and Hammond had notice that YCAO received the Sealed Orders
9 immediately after the Orders were signed by Judge Thomas Lindberg. At no time did Defendant's
10 previous attorneys object, protest or raise an issue that YCAO was being copied with Sealed Rule
11 15.9 Orders. The only reasonable explanation is that Judge Lindberg never intended the offices of
12 YCAO and the Victim Advocate be kept in the blind on his orders. This also explains why
13 Defendant's previous attorneys never raised an objection.

14
15 Support for this explanation can be seen in an Order from Judge Lindberg on July 6, 2009.
16 Judge Lindberg ordered the Clerk of Court to forthwith seal Defendant's "*Motion to file Rule 15.9*
17 *Applications, Ex Parte, in Camera, and Under Seal and set and Expedited Ex Parte, in Camera*
18 *Under Seal Hearing.*" This Order makes no mention of precluding YCAO and the Victim
19 Advocate from **receiving** his Ex Parte Rule 15. 9 Orders.

20
21 The Defendant's attorneys prepared the Rule 15.9 Orders and Mr. Trebesch, as the
22 contract administrator, approved them as to form and content. The Order states "(UNDER
23 SEAL)" on its face and this can only mean Judge Lindberg intended the order sealed from the
24 general public. This is corroborated by the lack of any objection from Defendant's attorneys that
25 YCAO and the Victim Advocates were copied with each sealed order.
26

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1 The Defendant's attorneys knew YCAO was copied with Rule 15.9 Sealed Orders when
2 this was a Capital Case and they never claimed prejudice. The same must now be said of
3 Defendant's motion to dismiss/disqualify YCAO. The Defendant 6th Amendment Rights were
4 not violated by the Yavapai County Attorney's Office and the Defendant has no claim that he was
5 prejudiced.

6
7 **RESPECTFULLY SUBMITTED** this 22nd day of July, 2011.

8 **Sheila Sullivan Polk**
9 **YAVAPAI COUNTY ATTORNEY**

10 By: 

11 **Jeffrey Paupore**
12 Deputy County Attorney

13
14 **COPY** of the foregoing **Emailed** this
15 22nd day of July, 2011, to:

16 Honorable Warren R. Darrow
17 Division 6
18 Yavapai County Superior Court
19 Via email to Diane Troxell: DTroxell@courts.az.gov

20 Craig Williams
21 Attorney for Defendant
22 Yavapai Law Office
23 3681 No. Robert Rd.
24 Prescott Valley, AZ 86314
25 Via email to yavapaiolaw@hotmail.com

26 Greg Parzych
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Chandler, AZ 85224
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1 Via email to johnnapper@cableone.net

2 Daniela De La Torre

Attorney for victim

3 Charlotte DeMocker

4 245 West Roosevelt, Suite A

Phoenix, AZ 85003

5 via email to: ddelatorre@azbar.org

6 Melody G. Harmon

Attorney for victim

7 Katie DeMocker

8 210 S. 4th Ave., Suite 220

Phoenix, AZ 85003

9 Via email to mharmonlaw@gmail.com

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

FILED
O'Clock
AUG 03 2009
BY JEANNE HICKS, Clerk
Deputy

STATE OF ARIZONA,
Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,
Defendant.

No. CR 2008-1339
Div. 6

**ORDER FOR RULE 15.9
APPOINTMENTS**
(UNDER SEAL)

The Court, having received and considered Defendant's Applications for Rule
15.9 Appointments, and good cause appearing therefrom, HEREBY ORDERS THAT:

☒ County Atty ☒ Def Atty Bears
☒ Victim Witness Deborah Matedon
☐ APD ☐ YSCG/12A ☐ YSCG/12A 1s
☐ POC ☒ Div 6 ☒ Other D. Trebesch (PD)
☐ Dispo Clk w/file ☐ Obligations

JUL 30 2009

EX "A"

1 DONE IN OPEN COURT THIS 29th day of July, 2009.

2
3
4 *for* William T. Kruger
The Hon. Thomas B. Lindberg
Judge of the Superior Court
Division Six

5
6
7 APPROVED AS TO FORM AND CONTENT:

8 Dean Trebesch
9 Dean Trebesch, Yavapai County
10 Indigent Defense Contract Administrator